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SUBJECT: BOSNIA: PM CAVES ON INVESTIGATING FATE OF SERBS IN
SARAJEVO

REF: SARAJEVO 738

Classified By: Ambassador McElhaney for reasons 1.4(b) and (d).

¶1. (C) Summary: On May 25, the BiH Council of Ministers decided to form a state commission to investigate "the truth about the suffering of all citizens of Sarajevo" from 1992-1995. Although Bosnian Serb leaders had long pushed for a commission to investigate the deaths and disappearances of Sarajevo Serbs only, they view this broader, multi-ethnic mandate as an acceptable compromise. Associations of victims and families of missing persons also expressed satisfaction with the decision. Prime Minister Adnan Terzic, who resisted establishing such a commission despite Parliamentary decisions dating from June and October 2004 ordering its creation, finally caved under considerable pressure from Bosnian Serb politicians -- who walked out of the House of Representatives on May 24, a step that threatened to block the functioning of state institutions. Terzic was also getting flak from the Bosniaks, who saw the compromise as a way to get their own issues on the table. In the end, Terzic found that his backing from Ashdown's OHR had abruptly disappeared when the new High Rep, Schwarz-Schilling, urged him to respect Parliament's decision. Even as the process of forming the Sarajevo Commission moves forward, it raises more questions about the overall framework for pursuing the "truth" about wartime atrocities and about the nexus between such efforts and the criminal justice system. End summary.

SARAJEVO COMMISSION TO INVESTIGATE WAR CRIMES

¶2. (U) At its May 25 session, the BiH Council of Ministers (CoM), chaired by Prime Minister Adnan Terzic, agreed to establish a "Sarajevo Commission" (the Commission) to investigate mass and individual killings, camps and prisons, rapes, and the identity and number of deported, expelled, refugees and missing persons among the civilian population of wartime Sarajevo. Because the prewar Sarajevo area as defined by the 1982 Statute of Sarajevo City was considerably larger than it is now, the Commission's mandate will cover the four current municipalities of Sarajevo (Stari Grad, Centar, Novo Sarajevo and Novi Grad) as well as the municipalities of Pale, Trnovo, Hadzici, Vogosca and Ilidza, some of which are now located in the Republika Srpska (RS).

¶3. (U) The Commission will have three members from each of BiH's constituent peoples (Bosniaks, Serbs and Croats) as well as one member representing "others." This member is likely to be selected from Sarajevo's small but influential Jewish community. The state Ministry of Human Rights and Refugees is tasked with submitting a list of proposed members

to the CoM at its next session. Once formed, the Commission will have one year to carry out its mandate and will be required to submit quarterly and final reports to the CoM.

TERZIC CAVES QDER PRESSURE FROM ALL SIDES

14. (C) After dragging his heels for almost two years, the increasingly insistent demands for "truth" about Sarajevo Serbs finally caught up with PM Terzic. The work of the Srebrenica Commission, which was ordered by the Human Rights Commission of the Constitutional Court to investigate the July 1995 massacre of Bosniak men and boys in the eastern RS town of Srebrenica, fueled the campaign for Serbs to have their "own" Commission, designed in part to bolster their claims of high numbers of Serb civilian war victims. Despite Parliamentary decisions in June and October 2004 calling for the establishment of a "Sarajevo Commission" to investigate war crimes against the civilian population of wartime Sarajevo, Terzic and his allies tried long and hard to avoid creating the Commission, at least as envisioned by Bosnian Serb politicians. However, the May 24 walkout by Serb members of the House of Representatives and their threat to boycott Parliament for the next 100 days (which would prevent a quorum and thus bring Parliament to a grinding halt) forced Terzic's hand, as did the possibility of being forced out of the PM position just months before the October 2006 general elections.

15. (C) In his remarks to the press on May 25, Terzic repeated that he still did not agree with using this kind of Commission to get at the truth about wartime atrocities in Sarajevo, but that he accepted it as necessary in order to prevent obstructionists from using increasingly heated political rhetoric to block BiH's progress towards European

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integration. The High Representative (who pressed Terzic privately to relent) welcomed the decision to form the Commission and called on parliamentarians not to prevent the work of the government. While welcoming the CoM decision, some Serb parliamentarians expressed skepticism and cautioned that they would not consider returning to Parliament until the Commission was actually established.

TERZIC PINS THE BLAME ON OHR

16. (C) Terzic told the Ambassador that he still thought the Parliamentary decision mandating the Commission was "stupid;" it could spawn a plethora of such commissions country-wide. Terzic claimed he had agreed with previous OHR management (PDHR Hays and HR Ashdown) that it would be better to establish one such commission for all of BiH at the national level. It could then include investigations in Sarajevo as part of its mandate. According to Terzic, Hays had agreed to work on a draft proposal through USIP, in consultation with representatives of the eight major political parties represented in the BiH Parliament. But after the new High Rep took office, Terzic said, no one told him that OHR's policy had changed in favor of a separate Sarajevo commission -- until a call on May 23. Now, he could not rely on anything negotiated with the previous High Rep. Terzic added that OHR's insistence that he defer to Parliament was hypocritical, given that OHR had recently re-appointed ITA Governing Board chair Joly Dixon in direct opposition to Parliament's stated preference.

17. (C) Terzic acknowledged that the prolonged dispute with Parliament had given both the Bosnian Serb parties and Silajdzic's Party for BiH (SBiH) a perfect issue to attack him about. In addition to losing backing from OHR and the international community, Terzic claimed he had been made a scapegoat within his own party, SDA, and fingered close Tihic confidant (and Minister for Human Rights) Kebo as the culprit. However, Terzic took some comfort in the fact that parliament did not get the precise commission it had asked for; the new body will investigate a broader range of crimes

in a broader area surrounding Sarajevo than early (Serb) proponents had envisaged.

A COMMISSION FOR EVERY COMMUNITY?

¶18. (C) A number of international organizations active in the search for missing persons and in human rights issues generally, including the International Commission on Missing Persons (ICMP) and the UN Office of the High Commissioner for Human Rights (UNHCHR) expressed reservations about this Commission. One major concern is that it will encourage victims' groups to push for independent Commissions for other towns where atrocities took place, including Prijedor, Mostar, Visegrad and Foca. (Brcko District mayor Djapo is also considering this.) To some extent, this is already occurring as the Human Rights Commission of the Constitutional Court has already been ordering investigations as a result of cases filed by individual survivors or relatives of missing persons. Generally, the Court tasks the entity governments with these investigations, and in turn are often delegated to the entity Missing Persons Commissions -- which lack the capacity to carry out these orders. The disappointing lack of progress by the RS commission tasked with investigating the disappearance of Bosnian Army Colonel Avdo Palic is one prominent example of the ineffectiveness of this kind of truth-seeking mechanism. Many international observers question why existing state-level mechanisms like the State Prosecutor's Office and state-level law enforcement bodies cannot be used instead of inefficient, ad hoc Commissions.

LINKS TO THE TRUTH AND RECONCILIATION PROCESS

¶19. (C) Under pressure from representatives of the Washington-based U.S. Institute for Peace, PM Terzic signed a letter in February 2006 supporting the establishment of a broader, state-level "Truth Commission" for BiH overall. (See ref A). Whatever the mechanism ultimately employed, human rights advocates are concerned that there must be appropriate information-sharing with the criminal justice system and respect for victims' rights.

COMMENT

¶10. (C) Bowing to political reality, PM Terzic finally

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acquiesced to the establishment of a "Sarajevo Commission." Terzic had little choice: the Bosnian Serb parliamentarians could cite Terzic's long defiance of Parliament's wishes as a justification for their election-season walkout. But Terzic was also under fire from the Bosniaks, in both SDA and SBiH, who believe the commission will ultimately work in their favor. And finally -- ironically -- Terzic found himself pressured by the new High Rep, who reversed his predecessor's policy and left Terzic out on an increasingly shaky limb. While Terzic has weathered the crisis for now, he has been weakened, politically, by his unnecessarily drawn-out defiance. He has given both Serbs, SBiH and his enemies in his own party, SDA, a hot-button issue in a pre-election season.

¶11. (C) That it is a commission for the investigation of atrocities against all citizens of Sarajevo is a minor victory. However, the decision has brought a number of pressing questions back to the surface, including whether BiH needs a national Truth Commission and how the decisions of the Human Rights Commission in multiple and ever-increasing wartime disappearance and genocide cases can best be implemented.

MCELHANEY